

## House Amendments to Senate Bill No. 3035

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

24           **SECTION 1.** Section 99-37-25, Mississippi Code of 1972, is  
25 amended as follows:

26           99-37-25. (1) (a) When a person is brought into a doctor's  
27 office, a hospital or a medical clinic \* \* \* by a law enforcement  
28 agency as the victim of an alleged rape or sexual assault having  
29 occurred in this state, or comes into a doctor's office, a  
30 hospital or a medical clinic \* \* \* alleging rape or sexual assault  
31 having occurred in this state, the bill for the medical forensic  
32 examination and the preparation of the sexual assault evidence  
33 collection kit will be sent to the Division of Victim  
34 Compensation, Office of the Attorney General. The Division of  
35 Victim Compensation shall pay for the medical examination  
36 conducted for the procurement of evidence to aid in the  
37 investigation and prosecution of the alleged offense. Such  
38 payment shall be limited to the customary and usual hospital and  
39 physician charges for such services in the area. Such payment  
40 shall be made by the Division of Victim Compensation directly to  
41 the health care provider. No bill for the examination will be  
42 submitted to the victim, nor shall the medical facility hold the  
43 victim responsible for payment. \* \* \* The victim may be billed  
44 for any further medical services not required for the  
45 investigation and prosecution of the alleged offense. In cases  
46 where the damage caused by the alleged sexual assault requires  
47 medical treatment or diagnosis in addition to the examination, the  
48 patient will be given information about the availability of victim  
49 compensation and the procedure for applying for such compensation.

50           (b) Upon application submitted by the district  
51 attorney, provided the proper warrant or court order has been  
52 issued, the county in which an offense of sexual assault or of  
53 felonious abuse or battery of a child as described in Section  
54 97-5-39, touching or handling a child for lustful purposes as  
55 described in Section 97-5-23, exploitation of children as  
56 described in Section 97-5-33 or sexual battery as described in  
57 Section 97-3-95, or statutory rape as defined in Section 97-3-65,  
58 or an attempt to commit such offense has occurred shall pay for a  
59 medical forensic examination of the person arrested, charged or  
60 convicted of such offense to determine if the person so arrested,  
61 charged or convicted has any sexually transmitted disease  
62 including the immunodeficiency virus (HIV) and for the collection  
63 of evidence. Such payment shall be made by the county directly to  
64 the health care provider or other service performing the  
65 collection of evidence and tests. The results of any such test  
66 shall be made available to the victim or, if the victim is a  
67 child, to the guardian of the victim.

68           (2) Any defendant who is convicted of, or pleads guilty or  
69 nolo contendere to, any offense \* \* \* or an attempt to commit any  
70 such offense specified in subsection (1)(b) shall be ordered by  
71 the court to make restitution to the Division of Victim  
72 Compensation in an amount equal to the compensation paid by the  
73 Division of Victim Compensation to the victim or medical provider  
74 for the medical forensic examination and to the county for tests  
75 for sexually transmitted diseases and HIV. Such restitution shall  
76 be in addition to any restitution which the court orders the  
77 defendant to pay the victim under the provisions of Chapter 37 of  
78 Title 99, (Sections 99-37-1 through 99-37-21), Mississippi Code of  
79 1972.

80           (3) The Division of Victim Compensation is hereby  
81 authorized, in its discretion, to make application for and comply  
82 with such requirements as may be necessary to qualify for any  
83 federal funds as may be available as a result of services rendered  
84 to crime victims under the provisions of this section.

85           **SECTION 2.** Section 99-41-5, Mississippi Code of 1972, is  
86 amended as follows:

87           99-41-5. As used in this chapter, unless the context  
88 otherwise requires, the term:

89           (a) "Allowable expense" means reasonable charges  
90 incurred for reasonably needed:

91           (i) Products, services and accommodations,  
92 including, but not limited to, medical care, rehabilitation,  
93 rehabilitative occupational training and other remedial treatment  
94 and care, but not to exceed Fifteen Thousand Dollars (\$15,000.00);

95           (ii) Mental health counseling and care not to  
96 exceed Three Thousand Five Hundred Dollars (\$3,500.00) for the  
97 victim and victim's family member; provided, however, if there is  
98 more than one (1) family member, the amount of compensation  
99 awarded shall be prorated and not to exceed Three Thousand Five  
100 Hundred Dollars (\$3,500.00); and

101           (iii) Expenses related to funeral, cremation or  
102 burial, but not to exceed a total charge of Six Thousand Five  
103 Hundred Dollars (\$6,500.00) and transportation costs to arrange or  
104 attend services, but not to exceed Eight Hundred Dollars  
105 (\$800.00); and

106           (iv) Necessary expenses including, but not limited  
107 to, crime scene cleanup, court-related travel, execution travel,  
108 property damage repair and replacement costs for windows, doors,  
109 locks or other security devices of a residential dwelling, and  
110 temporary housing and relocation assistance for victims of  
111 domestic violence in imminent danger. The division shall  
112 establish, by administrative rule, guidelines and monetary limits  
113 for such expenses.

114           (b) "Claimant" means any of the following persons  
115 applying for compensation under this chapter:

116           (i) A victim;

117           (ii) A dependent of a victim who has died because  
118 of criminally injurious conduct; \* \* \*

119                   (iii) The surviving parent, spouse, child or any  
120 person who is legally obligated to pay or has paid medical,  
121 funeral or other allowable expenses incurred as a result of the  
122 victim's death;

123                   (iv) Family members of the victim who incur mental  
124 health counseling expenses as a result of the victim's death; or

125                   (v) A person authorized to act on behalf of any of  
126 the persons enumerated in subparagraphs (i), (ii), (iii) and (iv)  
127 of this paragraph; however, "claimant" shall not include any of  
128 the following: provider or creditor of victim; assignee of  
129 provider or creditor, including a collection agency; or another  
130 person or entity other than those enumerated in this paragraph;

131                   (c) "Collateral source" means a source of benefits or  
132 advantages for economic loss for which the claimant would  
133 otherwise be eligible to receive compensation under this chapter  
134 which the claimant has received, or which is readily available to  
135 the claimant, from any one or more of the following:

136                   (i) The offender;

137                   (ii) The government of the United States or any  
138 agency thereof, a state or any of its political subdivisions or an  
139 instrumentality of two (2) or more states;

140                   (iii) Social security, Medicare and Medicaid;

141                   (iv) Workers' compensation;

142                   (v) Wage continuation programs of any employer;

143                   (vi) Proceeds of a contract of insurance payable  
144 to the claimant for loss which the victim sustained because of the  
145 criminally injurious conduct;

146                   (vii) A contract providing prepaid hospital and  
147 other health care services or benefits for disability; or

148                   (viii) Any temporary nonoccupational disability  
149 insurance;

150                   (d) "Criminally injurious conduct" means an act  
151 occurring or attempted within the geographical boundaries of this  
152 state, or to a resident of Mississippi while that resident is  
153 within any other state of the United States or any foreign

154 country, which state or foreign country does not provide  
155 compensation for those injuries caused by an act for which  
156 compensation would be available had the act occurred in  
157 Mississippi, and which act results in personal injury or death to  
158 a victim for which punishment by fine, imprisonment or death may  
159 be imposed. For purpose of this chapter "criminally injurious  
160 conduct" shall also include federal offenses committed within the  
161 state which result in personal injury or death to a victim and  
162 which are punishable by fine imprisonment or death, and delinquent  
163 acts as defined in Section 43-21-105 which result in personal  
164 injury or death to a victim and which, if committed by an adult,  
165 would be a crime punishable by fine, imprisonment or death;

166 (e) "Dependent" means a natural person wholly or  
167 partially dependent upon the victim for care or support, and  
168 includes a child of the victim born after the death of the victim  
169 where the death occurred as a result of criminally injurious  
170 conduct;

171 (f) "Economic loss of a dependent" means loss, after  
172 death of the victim, of contributions or things of economic value  
173 to the dependent, not including services which would have been  
174 received from the victim if he or she had not suffered the fatal  
175 injury, less expenses of the dependent avoided by reason of death  
176 of the victim;

177 (g) "Economic loss" means monetary detriment consisting  
178 only of allowable expense, work loss and, if injury causes death,  
179 economic loss of a dependent, but shall not include noneconomic  
180 loss or noneconomic detriment;

181 (h) "Family member" means the victim's spouse, parent,  
182 grandparent, stepparent, child, stepchild, grandchild, brother,  
183 sister, half brother, half sister or spouse's parent;

184 (i) "Noneconomic loss or detriment" means pain,  
185 suffering, inconvenience, physical impairment and nonpecuniary  
186 damage;

187 (j) "Work loss" means loss of income from work the  
188 victim or claimant would have performed if the victim had not been

189 injured, but reduced by any income from substitute work actually  
190 performed by the victim or claimant or by income the victim or  
191 claimant would have earned in available appropriate substitute  
192 work that he or she was capable of performing, but unreasonably  
193 failed to undertake; and

194 (k) "Victim" means a person who suffers personal injury  
195 or death as a result of criminally injurious conduct, regardless  
196 of whether that person was the intended victim of the criminally  
197 injurious conduct. This definition may include a person who,  
198 while going to the aid of another person or any duly sworn law  
199 enforcement officer, or while attempting to prevent a crime from  
200 occurring, suffers personal injury or death as a result of  
201 criminally injurious conduct.

202 **SECTION 3.** Section 99-41-7, Mississippi Code of 1972, is  
203 amended as follows:

204 99-41-7. There is hereby created in the Attorney General's  
205 Office the Division of Victim Compensation, hereafter referred to  
206 as "division." In the Division of Victim Compensation there is  
207 hereby created the position of Director of Victim Compensation,  
208 hereafter referred to as "director." The duties of the director  
209 shall include receipt, investigation, verification and  
210 adjudication of a claim for compensation under the provisions of  
211 this chapter. The duties shall also include facilitating  
212 assistance to victims of crime through information referrals,  
213 advocacy outreach programs and other victim-related services. The  
214 director shall be appointed by the Attorney General.

215 **SECTION 4.** Section 99-41-11, Mississippi Code of 1972, is  
216 amended as follows:

217 99-41-11. (1) The director shall award compensation for  
218 economic loss arising from criminally injurious conduct if  
219 satisfied by a preponderance of the evidence that the requirements  
220 for compensation have been met.

221 (2) The director shall make such investigations, administer  
222 such oaths or affirmations and receive such evidence as he deems  
223 relevant and necessary to make a determination on any application

224 received. The director shall have the power to subpoena  
225 witnesses, compel their attendance and require the production of  
226 records and other evidence. Application to a court for aid in  
227 enforcing a subpoena may be made in the name of the director. To  
228 the extent that funds are appropriated or otherwise available, the  
229 Attorney General may employ such personnel, including expert  
230 witnesses, as may be required in connection with particular  
231 applications before the director, and the director may take  
232 judicial notice of general, technical and scientific facts within  
233 his specialized knowledge.

234 (3) The director may settle a claim by stipulation, agreed  
235 settlement, consent order or default.

236 (4) The director may request access to and obtain from  
237 prosecuting attorneys or law enforcement officers, as well as  
238 state and local agencies, any reports of investigations or other  
239 data necessary to assist the director in making a determination of  
240 eligibility for compensation under the provisions of this chapter.

241 (5) Notwithstanding any other provision of law, every law  
242 enforcement agency and prosecuting attorney in the state shall  
243 provide to the director, upon request, a complete copy of the  
244 report regarding the incident and any supplemental reports  
245 involving the crime or incident giving rise to a claim filed  
246 pursuant to this chapter within thirty (30) days of such request.

247 (6) Any statute providing for the confidentiality of a  
248 claimant or victim's court record shall not be applicable under  
249 this chapter, notwithstanding the provisions of any other law to  
250 the contrary; provided, however, any such record or report which  
251 is otherwise protected from public disclosure by the provisions of  
252 any other law shall otherwise remain subject to the provisions of  
253 such law.

254 (7) The director may require that the claimant submit with  
255 the application material substantiating the facts stated in the  
256 application.

257 (8) After processing an application for compensation filed  
258 under rules and regulations promulgated by the Attorney General,  
259 the director shall enter an order stating:

260 (a) Findings of fact;

261 (b) The decision as to whether or not compensation  
262 shall be awarded;

263 (c) The amount of compensation, if any, due under this  
264 chapter;

265 (d) The person or persons to whom any compensation  
266 should be paid;

267 (e) The percentage share of the total of any  
268 compensation award and the dollar amount each person shall  
269 receive; and

270 (f) Whether disbursement of any compensation awarded  
271 shall be made in a lump sum or in periodic payments.

272 (9) The director on his own motion or on request of the  
273 claimant may reconsider a decision granting or denying an award or  
274 determining its amount. An order on reconsideration of an award  
275 shall not require a refund of amounts previously paid unless the  
276 award was obtained by fraud.

277 (10) If a claimant disagrees with the decision of the  
278 director, he may contest such decision to the Attorney General  
279 within thirty (30) days after notification of issuance of the  
280 decision. There shall be no appeal of a decision of the director  
281 except as set forth in this subsection.

282 (11) In a contested case, all parties shall be afforded an  
283 opportunity for a hearing after reasonable notice pursuant to  
284 regulations promulgated pursuant to this chapter and may offer  
285 evidence and argument on any issue relevant to the claim and may  
286 examine witnesses and offer evidence in reply to any matter of an  
287 evidentiary nature relevant to the claim. The Attorney General  
288 shall have the power to subpoena witnesses, compel their  
289 attendance and require the production of records and other  
290 evidence. The decision of the Attorney General becomes the final  
291 decision. A record of the hearing in a contested case shall be



292 made and shall be transcribed upon request of any party who shall  
293 pay transcription costs unless otherwise ordered by the Attorney  
294 General.

295 **SECTION 5.** Section 99-41-17, Mississippi Code of 1972, is  
296 amended as follows:

297 99-41-17. (1) Compensation shall not be awarded under this  
298 chapter:

299 (a) Unless the criminally injurious conduct occurred  
300 after July 1, 1991;

301 (b) Unless the claim has been filed with the director  
302 within thirty-six (36) months after the crime occurred, or in  
303 cases of child sexual abuse, within thirty-six (36) months after  
304 the crime was reported to law enforcement or the Department of  
305 Human Services, but in no event later than the child's  
306 twenty-first birthday. For good cause, the director may extend  
307 the time period allowed for filing a claim for an additional  
308 period not to exceed twelve (12) months;

309 (c) To a claimant or victim who was the offender or an  
310 accomplice to the offender, or, except in cases of children under  
311 the age of consent as specified in Section 97-3-65, 97-3-97 or  
312 97-5-23, Mississippi Code of 1972, who encouraged or in any way  
313 knowingly participated in criminally injurious conduct;

314 (d) To another person, if the award would unjustly  
315 benefit the offender or accomplice;

316 (e) Unless the criminally injurious conduct resulting  
317 in injury or death was reported to a law enforcement officer  
318 within seventy-two (72) hours after its occurrence or unless it is  
319 found that there was good cause for the failure to report within  
320 such time;

321 (f) To any claimant or victim when the injury or death  
322 occurred while the victim was confined in any federal, state,  
323 county or city jail or correctional facility;

324 (g) If the victim was injured as a result of the  
325 operation of a motor vehicle, boat or airplane, unless the vehicle  
326 was used by the offender (i) while under the influence of alcohol

327 or drugs, \* \* \* (ii) as a weapon in the deliberate attempt to  
328 injure or cause the death of the victim, (iii) in a hit and run  
329 accident by leaving the scene of an accident as specified in  
330 Section 63-3-401 or (iv) to flee apprehension by law enforcement  
331 as specified in Sections 97-9-72 and 97-9-73;

332 (h) If, following the filing of an application, the  
333 claimant failed to take further steps as required by the division  
334 to support the application within forty-five (45) days of such  
335 request made by the director or failed to otherwise cooperate with  
336 requests of the director to determine eligibility, unless failure  
337 to provide information was beyond the control of the claimant;

338 (i) To a claimant or victim who, subsequent to the  
339 injury for which application is made, is convicted of any  
340 felony \* \* \*, and the conviction becomes known to the director;

341 (j) To any claimant or victim who has been previously  
342 convicted as, or otherwise meets the definition of a habitual  
343 criminal as defined in Section 99-19-81;

344 (k) If the claimant or victim, at the time of the  
345 criminally injurious conduct upon which the claim for compensation  
346 is based, engaged in conduct that was a felony or delinquent act  
347 (as defined in Section 43-21-105 which, if committed by an adult,  
348 would constitute a felony) unrelated to the crime upon which the  
349 claim for compensation is based.

350 (2) Compensation otherwise payable to a claimant shall be  
351 diminished to the extent:

352 (a) That the economic loss is recouped from other  
353 sources, including collateral sources; and

354 (b) Of the degree of responsibility for the cause of  
355 injury or death attributable to the victim or claimant.

356 (3) Upon a finding that the claimant or victim has not fully  
357 cooperated with appropriate law enforcement agencies and  
358 prosecuting attorneys, an award of compensation may be denied,  
359 withdrawn or reduced.

360 (4) Compensation otherwise payable to a claimant or victim  
361 may be denied or reduced to a claimant or victim who, at the time

362 of the crime upon which the claim for compensation is based, was  
363 engaging in or attempting to engage in other unlawful activity  
364 unrelated to the crime upon which the claim for compensation is  
365 based.

366 **SECTION 6.** Section 99-41-23, Mississippi Code of 1972, is  
367 amended as follows:

368 99-41-23. (1) Compensation for work loss may not  
369 exceed Six Hundred Dollars (\$600.00) per week, not to exceed  
370 fifty-two (52) weeks; the total amount of the award may not exceed  
371 the aggregate limitation of this section.

372 (2) Compensation for economic loss of a dependent may not  
373 exceed Six Hundred Dollars (\$600.00) per week not to exceed  
374 fifty-two (52) weeks; provided, however, if there is more than one  
375 (1) dependent per victim the amount of compensation awarded shall  
376 be prorated among the dependents and the total amount of the award  
377 may not exceed the aggregate limitation of this section.

378 (3) In the event of the victim's death, compensation for  
379 work loss of claimant may not exceed Six Hundred Dollars (\$600.00)  
380 per week not to exceed one (1) week; provided, however, if there  
381 is more than one (1) claimant per victim, the amount of  
382 compensation awarded shall be prorated among the claimants and the  
383 total amount of the award may not exceed Six Hundred Dollars  
384 (\$600.00).

385 (4) Compensation payable to a victim and to all other  
386 claimants sustaining economic loss because of injury to or death  
387 of that victim may not exceed Twenty Thousand Dollars (\$20,000.00)  
388 in the aggregate.

389 (5) A determination that compensation shall be awarded may  
390 provide for payment to a claimant in a lump sum or in  
391 installments. All medical bills may be paid directly to affected  
392 health care providers. At the request of the claimant, the  
393 director may convert future economic loss, other than allowable  
394 expense, to a lump sum, but only upon a finding of either of the  
395 following:

396 (a) That the award in a lump sum will promote the  
397 interests of the claimant; or

398 (b) That the present value of all future economic loss,  
399 other than allowable expense, does not exceed One Thousand Dollars  
400 (\$1,000.00).

401 (6) An award payable in installments for future economic  
402 loss may be made only for a period as to which the future economic  
403 loss can reasonably be determined. An award payable in  
404 installments for future economic loss may be modified upon  
405 findings that a material and substantial change of circumstances  
406 has occurred.

407 (7) An award shall not be subject to execution, attachment,  
408 garnishment or other process, except that an award shall not be  
409 exempt from orders for the withholding of support for minor  
410 children, and except that an award for allowable expense shall not  
411 be exempt from a claim of a creditor to the extent that such  
412 creditor has provided products, services or accommodations, the  
413 costs of which are included in the award.

414 (8) An assignment by the claimant to any future award under  
415 the provisions of this chapter is unenforceable, except:

416 (a) An assignment of any award for work loss to assure  
417 payment of court-ordered alimony, maintenance or child support; or

418 (b) An assignment for any award for allowable expense  
419 to the extent that the benefits are for the cost of products,  
420 services or accommodations necessitated by the injury or death on  
421 which the claim is based and which are provided or are to be  
422 provided by the assignee.

423 (9) Subsections (7) and (8) of this section prevail over  
424 Sections 75-9-406 and 75-9-408 of Article 9 of the Uniform  
425 Commercial Code to the extent, if any, that Sections 75-9-406 and  
426 75-9-408 may otherwise be applicable.

427 **SECTION 7.** Section 99-41-29, Mississippi Code of 1972, is  
428 amended as follows:

429 99-41-29. (1) From and after July 1, 1990, there is hereby  
430 created in the State Treasury a special interest-bearing fund to

431 be known as the Crime Victims' Compensation Fund. The monies  
432 contained in the fund shall be held in trust for the sole purpose  
433 of payment of awards of compensation to victims and claimants  
434 pursuant to this chapter, the payment of all necessary and proper  
435 expenses incurred by the division in the administration of this  
436 chapter, payment of sexual assault examinations pursuant to  
437 Section 99-37-25 and payment of other expenses in furtherance of  
438 providing assistance to victims of crime through information  
439 referrals, advocacy outreach programs and victim-related services.  
440 Expenditures from the fund shall be paid by the State Treasurer  
441 upon warrants issued by the Department of Finance and  
442 Administration, and upon requisitions signed by the Attorney  
443 General or his duly designated representative in the manner  
444 provided by law. The fund shall be a continuing fund, not subject  
445 to fiscal-year limitations, and shall consist of: (a) monies  
446 appropriated by the Legislature for the purposes of compensating  
447 the victims of crime and other claimants under this chapter; (b)  
448 the interest accruing to the fund; (c) monies recovered by the  
449 director under the provisions of Section 99-41-21; (d) monies  
450 received from the federal government; and (e) monies received from  
451 such other sources as may be provided by law.

452 (2) No compensation payments shall be made which exceed the  
453 amount of money in the fund. The state shall not be liable for a  
454 written order to pay compensation, except to the extent that  
455 monies are available in the fund on the date the award is ordered.  
456 The Attorney General shall establish such rules and regulations as  
457 shall be necessary to adjust awards and payments so that the total  
458 amount awarded does not exceed the amount of money on deposit in  
459 the fund. Such rules and regulations may include, but shall not  
460 be limited to, the authority to provide for suspension of payments  
461 and proportioned reduction of benefits to all claimants; provided,  
462 however, no such reductions as provided for shall entitle  
463 claimants to future retroactive reimbursements in future years.

464 **SECTION 8.** Section 99-43-7, Mississippi Code of 1972, is  
465 amended as follows:

466           99-43-7. (1) Unless the victim is unavailable or  
467 incapacitated as a result of the crime, within seventy-two (72)  
468 hours after the law enforcement agency becomes responsible for  
469 investigating the crime, the law enforcement agency shall provide  
470 to the victim in a manner and form prescribed by the Attorney  
471 General the following information:

472           (a) The availability of emergency and crisis services.

473           (b) The availability of victims' compensation benefits  
474 and the \* \* \*, address and telephone number of the Victim  
475 Compensation Division.

476           (c) The name of the law enforcement officer and  
477 telephone number of the law enforcement agency with the following  
478 statement attached: "If within sixty (60) days you are not  
479 notified of an arrest in your case, you may call the telephone  
480 number of the law enforcement agency for the status of the case."

481           (d) The procedural steps involved in a criminal  
482 prosecution or youth court proceeding.

483           (e) The rights authorized by the Mississippi  
484 Constitution on rights of victims, including a form to invoke  
485 these rights.

486           (f) The existence of and eligibility requirements for  
487 restitution and compensation pursuant to Section 99-37-1 et seq.  
488 and Section 99-41-1 et seq., Mississippi Code of 1972.

489           (g) A recommended procedure if the victim is subjected  
490 to threats or intimidation.

491           (h) The name and telephone number of the office of the  
492 prosecuting attorney to contact for further information.

493           (2) In the event a victim initiates proceedings against a  
494 person by filing an affidavit, petition or complaint in a court of  
495 competent jurisdiction, the clerk of the court shall provide the  
496 victim with the information set forth in subsection (1); however,  
497 in lieu of the information set forth in subsection (1)(c), the  
498 clerk shall advise the victim of the name and telephone number of  
499 the law enforcement agency to which the complaint will be

500 referred. This information shall be provided on a form prescribed  
501 by the Attorney General.

502 **SECTION 9.** Section 99-43-35, Mississippi Code of 1972, is  
503 amended as follows:

504 99-43-35. The victim has the right to the following  
505 information:

506 (a) As soon as practicable after the date of  
507 sentencing, the office of the prosecuting attorney shall notify  
508 the victim of the sentence imposed on the defendant.

509 (b) The names, addresses and telephone numbers of the  
510 appropriate agencies and departments to whom request for notice  
511 should be provided.

512 (c) The status of any post-conviction court review or  
513 appellate proceeding or any decisions arising from those  
514 proceedings shall be furnished to the victim by the Office of the  
515 Attorney General or the office of the district attorney, whichever  
516 is appropriate, within five (5) business days after the status is  
517 known.

518 (d) Upon any post-arrest release of the defendant, the  
519 sheriff or municipal jailer shall, upon request, notify the victim  
520 of the release \* \* \* of the defendant. In the case of domestic  
521 violence or sexual assault, the appropriate law enforcement agency  
522 shall make a reasonable attempt to notify the victim of the  
523 defendant's post-arrest release, regardless of the victim's  
524 exercise of his or her right to receive this information.

525 (e) The agency having physical custody of a prisoner  
526 shall, if provided a request for notice, and as soon as  
527 practicable, give notice to the victim of the escape and,  
528 subsequently, the return of the prisoner into custody.

529 **SECTION 10.** Section 99-43-43, Mississippi Code of 1972, is  
530 amended as follows:

531 99-43-43. (1) Upon written request, the victim shall have  
532 the right to be notified that he or she may submit a written  
533 statement, or audio or video recording, which shall be entered  
534 into the prisoner's Department of Corrections records. The

535 statement or recording shall be considered during any review for  
536 community status of the prisoner or prior to release of the  
537 prisoner.

538 (2) The victim shall have the right to be notified and  
539 allowed to submit a written or recorded statement when parole or  
540 pardon is considered.

541 (3) The victim shall have the right to be notified and  
542 allowed to submit a written or recorded statement when any change  
543 in custodial status, criminal history, registration status,  
544 expungement or restoration of rights is considered, whether such  
545 action be by executive order or judicial action.

546 **SECTION 11.** Section 43-21-261, Mississippi Code of 1972, is  
547 amended as follows:

548 43-21-261. (1) Except as otherwise provided in this  
549 section, records involving children shall not be disclosed, other  
550 than to necessary staff of the youth court, except pursuant to an  
551 order of the youth court specifying the person or persons to whom  
552 the records may be disclosed, the extent of the records which may  
553 be disclosed and the purpose of the disclosure. Such court orders  
554 for disclosure shall be limited to those instances in which the  
555 youth court concludes, in its discretion, that disclosure is  
556 required for the best interests of the child, the public safety or  
557 the functioning of the youth court and then only to the following  
558 persons:

559 (a) The judge of another youth court or member of  
560 another youth court staff;

561 (b) The court of the parties in a child custody or  
562 adoption cause in another court;

563 (c) A judge of any other court or members of another  
564 court staff;

565 (d) Representatives of a public or private agency  
566 providing supervision or having custody of the child under order  
567 of the youth court;

568 (e) Any person engaged in a bona fide research purpose,  
569 provided that no information identifying the subject of the



570 records shall be made available to the researcher unless it is  
571 absolutely essential to the research purpose and the judge gives  
572 prior written approval, and the child, through his or her  
573 representative, gives permission to release the information;

574 (f) The Mississippi Employment Security Commission, or  
575 its duly authorized representatives, for the purpose of a child's  
576 enrollment into the Job Corps Training Program as authorized by  
577 Title IV of the Comprehensive Employment Training Act of 1973 (29  
578 USCS Section 923 et seq.). However, no records, reports,  
579 investigations or information derived therefrom pertaining to  
580 child abuse or neglect shall be disclosed; and

581 (g) To any person pursuant to a finding by a judge of  
582 the youth court of compelling circumstances affecting the health  
583 or safety of a child and that such disclosure is in the best  
584 interests of the child.

585 Law enforcement agencies may disclose information to the  
586 public concerning the taking of a child into custody for the  
587 commission of a delinquent act without the necessity of an order  
588 from the youth court. The information released shall not identify  
589 the child or his address unless the information involves a child  
590 convicted as an adult.

591 (2) Any records involving children which are disclosed under  
592 an order of the youth court and the contents thereof shall be kept  
593 confidential by the person or agency to whom the record is  
594 disclosed except as provided in the order. Any further disclosure  
595 of any records involving children shall be made only under an  
596 order of the youth court as provided in this section.

597 (3) Upon request, the parent, guardian or custodian of the  
598 child who is the subject of a youth court cause or any attorney  
599 for such parent, guardian or custodian, shall have the right to  
600 inspect any record, report or investigation which is to be  
601 considered by the youth court at a hearing, except that the  
602 identity of the reporter shall not be released, nor the name of  
603 any other person where the person or agency making the information

604 available finds that disclosure of the information would be likely  
605 to endanger the life or safety of such person.

606 (4) Upon request, the child who is the subject of a youth  
607 court cause shall have the right to have his counsel inspect and  
608 copy any record, report or investigation which is filed with the  
609 youth court.

610 (5) (a) The youth court prosecutor or prosecutors, the  
611 county attorney, the district attorney, the youth court defender  
612 or defenders, or any attorney representing a child shall have the  
613 right to inspect any law enforcement record involving children.

614 (b) The Department of Human Services shall disclose to  
615 a county prosecuting attorney or district attorney any and all  
616 records resulting from an investigation into suspected child abuse  
617 or neglect when the case has been referred by the Department of  
618 Human Services to the county prosecuting attorney or district  
619 attorney for criminal prosecution.

620 (c) Agency records made confidential under the  
621 provisions of this section may be disclosed to a court of  
622 competent jurisdiction.

623 (d) Upon request, records involving children shall be  
624 disclosed to the Division of Victim Compensation of the Office of  
625 the Attorney General without order of the youth court for purposes  
626 of determination of eligibility for victim compensation benefits.

627 (6) Information concerning an investigation into a report of  
628 child abuse or child neglect may be disclosed by the Department of  
629 Human Services without order of the youth court to any attorney,  
630 physician, dentist, intern, resident, nurse, psychologist, social  
631 worker, family protection worker, family protection specialist,  
632 child caregiver, minister, law enforcement officer, public or  
633 private school employee making that report pursuant to Section  
634 43-21-353(1) if the reporter has a continuing professional  
635 relationship with the child and a need for such information in  
636 order to protect or treat the child.

637 (7) Information concerning an investigation into a report of  
638 child abuse or child neglect may be disclosed without further

639 order of the youth court to any interagency child abuse task force  
640 established in any county or municipality by order of the youth  
641 court of that county or municipality.

642 (8) Names and addresses of juveniles twice adjudicated as  
643 delinquent for an act which would be a felony if committed by an  
644 adult or for the unlawful possession of a firearm shall not be  
645 held confidential and shall be made available to the public.

646 (9) Names and addresses of juveniles adjudicated as  
647 delinquent for murder, manslaughter, burglary, arson, armed  
648 robbery, aggravated assault, any sex offense as defined in Section  
649 45-33-23, for any violation of Section 41-29-139(a)(1) or for any  
650 violation of Section 63-11-30, shall not be held confidential and  
651 shall be made available to the public.

652 (10) The judges of the circuit and county courts, and  
653 presentence investigators for the circuit courts, as provided in  
654 Section 47-7-9, shall have the right to inspect any youth court  
655 records of a person convicted of a crime for sentencing purposes  
656 only.

657 (11) The victim of an offense committed by a child who is  
658 the subject of a youth court cause shall have the right to be  
659 informed of the child's disposition by the youth court.

660 (12) A classification hearing officer of the State  
661 Department of Corrections, as provided in Section 47-5-103, shall  
662 have the right to inspect any youth court records, excluding abuse  
663 and neglect records, of any offender in the custody of the  
664 department who as a child or minor was a juvenile offender or was  
665 the subject of a youth court cause of action, and the State Parole  
666 Board, as provided in Section 47-7-17, shall have the right to  
667 inspect such records when the offender becomes eligible for  
668 parole.

669 (13) The youth court shall notify the Department of Public  
670 Safety of the name, and any other identifying information such  
671 department may require, of any child who is adjudicated delinquent  
672 as a result of a violation of the Uniform Controlled Substances  
673 Law.

674           (14) The Administrative Office of Courts shall have the  
675 right to inspect any youth court records in order that the number  
676 of youthful offenders, abused, neglected, truant and dependent  
677 children, as well as children in need of special care and children  
678 in need of supervision, may be tracked with specificity through  
679 the youth court and adult justice system, and to utilize tracking  
680 forms for such purpose.

681           (15) Upon a request by a youth court, the Administrative  
682 Office of Courts shall disclose all information at its disposal  
683 concerning any previous youth court intakes alleging that a child  
684 was a delinquent child, child in need of supervision, child in  
685 need of special care, truant child, abused child or neglected  
686 child, as well as any previous youth court adjudications for the  
687 same and all dispositional information concerning a child who at  
688 the time of such request comes under the jurisdiction of the youth  
689 court making such request.

690           (16) In every case where an abuse or neglect allegation has  
691 been made, the confidentiality provisions of this section shall  
692 not apply to prohibit access to a child's records by any state  
693 regulatory agency, any state or local prosecutorial agency or law  
694 enforcement agency; however, no identifying information concerning  
695 the child in question may be released to the public by such agency  
696 except as otherwise provided herein.

697           (17) In every case where there is any indication or  
698 suggestion of either abuse or neglect and a child's physical  
699 condition is medically labeled as medically "serious" or  
700 "critical" or a child dies, the confidentiality provisions of this  
701 section shall not apply. In cases of child deaths, the following  
702 information may be released by the Mississippi Department of Human  
703 Services: (a) child's name; (b) address or location; (c)  
704 verification from the Department of Human Services of case status  
705 (no case or involvement, case exists, open or active case, case  
706 closed); (d) if a case exists, the type of report or case  
707 (physical abuse, neglect, etc.), date of intake(s) and  
708 investigation(s), and case disposition (substantiated or

709 unsubstantiated). Notwithstanding the aforesaid, the  
710 confidentiality provisions of this section shall continue if there  
711 is a pending or planned investigation by any local, state or  
712 federal governmental agency or institution.

713 (18) Any member of a foster care review board designated by  
714 the Department of Human Services shall have the right to inspect  
715 youth court records relating to the abuse, neglect or child in  
716 need of supervision cases assigned to such member for review.

717 (19) Information concerning an investigation into a report  
718 of child abuse or child neglect may be disclosed without further  
719 order of the youth court in any administrative or due process  
720 hearing held, pursuant to Section 43-21-257, by the Department of  
721 Human Services for individuals whose names will be placed on the  
722 central registry as substantiated perpetrators.

723 **SECTION 12.** This act shall take effect and be in force from  
724 and after July 1, 2007.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 99-37-25, MISSISSIPPI CODE OF 1972,  
2 TO REVISE SEXUAL ASSAULT TESTING PROVISIONS; TO AMEND SECTION  
3 99-41-5, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS IN THE  
4 MISSISSIPPI CRIME VICTIMS' COMPENSATION ACT; TO AMEND SECTION  
5 99-41-7, MISSISSIPPI CODE OF 1972, TO REVISE DUTIES OF THE  
6 DIRECTOR OF THE DIVISION OF VICTIM COMPENSATION; TO AMEND SECTION  
7 99-41-11, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME ALLOWED TO  
8 CONTEST A DECISION OF THE DIRECTOR; TO AMEND SECTION 99-41-17,  
9 MISSISSIPPI CODE OF 1972, TO ALLOW THE DIRECTOR TO EXTEND THE TIME  
10 PERIOD ALLOWED FOR FILING A CLAIM; TO CLARIFY THE AWARDED OF  
11 COMPENSATION; TO AMEND SECTION 99-41-23, MISSISSIPPI CODE OF 1972,  
12 TO REVISE COMPENSATION AMOUNTS; TO AMEND SECTION 99-41-29,  
13 MISSISSIPPI CODE OF 1972, TO REVISE PROVISIONS REGARDING THE CRIME  
14 VICTIMS' COMPENSATION FUND; TO AMEND SECTION 99-43-7, MISSISSIPPI  
15 CODE OF 1972, TO REVISE LAW ENFORCEMENT NOTICE REQUIREMENTS; TO  
16 AMEND SECTION 99-43-35, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE  
17 OF RELEASE REQUIREMENTS; TO AMEND SECTION 99-43-43, MISSISSIPPI  
18 CODE OF 1972, TO PROVIDE THAT VICTIMS SHALL HAVE THE RIGHT TO BE  
19 NOTIFIED OF PROCEEDINGS AND TO SUBMIT A STATEMENT; TO AMEND  
20 SECTION 43-21-261, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
21 DISCLOSURE OF RECORDS TO THE DIVISION OF VICTIM COMPENSATION; AND  
22 FOR RELATED PURPOSES.

HR03\SB3035A.J

Don Richardson  
Clerk of the House of Representatives